

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-2343

United States of America,

Appellee,

v.

Armando Lopez-Lopez,

Appellant.

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Appeal from the United States
District Court for the District
of Nebraska.

[UNPUBLISHED]

Submitted: October 25, 2001

Filed: November 8, 2001

Before McMILLIAN, FAGG, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Armando Lopez-Lopez challenges the sentence imposed by the district court^{*} after Lopez-Lopez pleaded guilty to drug-conspiracy and money-laundering charges. Counsel has filed a brief and moved to withdraw under Anders v. California, 386 U.S. 738 (1967). Although we granted Lopez-Lopez permission to file a pro se supplemental brief, he has not done so.

^{*}The Honorable Richard G. Kopf, Chief Judge, United States District Court for the District of Nebraska.

Counsel argues that the district court committed error by increasing Lopez-Lopez's base offense level for possession of a dangerous weapon. We disagree. In our view, the district court correctly applied the enhancement in light of a witness's testimony that Lopez-Lopez held up his gun and warned her, "[Y]ou know what we do to narcas." See U.S.S.G. § 2D1.1, comment. (n.3) (adjustment should be applied if weapon was present, unless it is clearly improbable weapon was connected with offense); United States v. Behler, 187 F.3d 772, 777 (8th Cir. 1999) (district court's assessment of credibility is "virtually unreviewable"; clear-error standard).

Having reviewed the record independently in accordance with Penson v. Ohio, 488 U.S. 75 (1988), we find no other nonfrivolous issues. Thus, we grant counsel's motion to withdraw, deny as moot Lopez-Lopez's motion for appointment of appellate counsel, and affirm the district court.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.